Certain Foreign Pensions

Section 200 of the Taxes Consolidation Act (TCA) 1997

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1. Introduction

Section 200 of the Taxes Consolidation Act (TCA) 1997 provides for a tax exemption for certain foreign occupational and social security pensions. Where these pensions are disregarded for income tax purposes in the hands of a resident of the country of source, they are also disregarded for income tax purposes in this State, provided the country of source has a similar income tax system to Ireland.

Any pension or similar benefit to which section 200 TCA 1997 applies should be excluded for all the purposes of the Irish Income Tax Acts, whether the recipient is resident in Ireland or otherwise.

2. Conditions of Exemption

Section 200 TCA 1997 provides an exemption from income tax for certain foreign pensions where all of the following conditions are satisfied:

(a) It is a pension, benefit or allowance which

- is given in respect of past services in an office or employment, **or**
- is payable under the law of a foreign country where the pension which arises corresponds to the Social Welfare Consolidation Act 2005, Chapters 15 (Contributory - Old Age Pension), Chapter 18 (Contributory - Widows Pension) or Chapter 19 (Contributory Orphans Pension) of Part II or Chapters 4 (Non-Contributory Old Age Pension) or Chapter 6 (Non-Contributory Widows Pension) of Part III.

(b) The country in which the pension, benefit or allowance arises has a tax which is chargeable and payable under the law of that country and which corresponds to income tax in the State.

(c) If that pension, benefit or allowance were received by a person who is resident in the country in which it arises in and not resident elsewhere, it would be disregarded for income tax purposes in that country.

3. United States - Double Taxation Agreement

United States social security pensions are excluded from the scope of Section 200 TCA 1997 (as provided for by section 18 of Finance Act 1998).

This is due to the fact, that under the Double Taxation Agreement with the USA, United States social security pensions paid to Irish residents are exempt from tax in the United States. This exemption was conceded on the understanding that the pension would be fully taxable in Ireland.

4. Other points to note

4.1 Tax which corresponds to income tax in the State

For the purposes of section 200 TCA, **“tax”,** in relation to any country, means a tax which is chargeable and payable under the law of that country and which corresponds to income tax in the State.

In this regard, for the section 200 TCA exemption to apply, it is necessary for the country in which the benefit arises to have a tax which is chargeable and payable under the law of that country and corresponds to income tax in Ireland.

Countries that do not have an income tax similar to Ireland e.g. Cayman Islands, would not satisfy the conditions for the section 200 exemption.

4.2 Section 1032 – Non-residents and tax credits / reliefs

In the computation of relief under section 1032 (2) and (3) TCA 1997, the amount of any pension or similar benefit relieved from the charge to Irish tax under the provisions of section 200 TCA 1997 should not be included in the “total income”.

“Total income” is gross income from all sources (including income which is not subject to Irish tax).

5. Worked example

The following example illustrates how section 200 TCA 1997 operates in practice.

Conor is in receipt of a pension from his previous employment in the Cayman Islands where he worked for 10 years prior to returning to Ireland. He carried out all his duties in the Cayman Islands and was not Irish resident during the period of employment. When he returned to Ireland, he did not make any further contributions to his Cayman Islands pension. In 2023, Conor began receiving pension payments from the Cayman Island pension fund.

In determining whether Conor's pension is exempt from tax under section 200 TCA the following points need to be considered:

i. Was the pension given in respect of:

- past services in an office or employment

or

- payable under the law of a foreign country where the pension arises which corresponds to the Social Welfare Consolidation Act 2005, Chapters 15 (Contributory - Old Age Pension), Chapter 18 (Contributory - Widows Pension) or Chapter 19 (Contributory Orphans Pension) of Part II or Chapters 4 (Non-Contributory Old Age Pension) or Chapter 6 (Non-Contributory Widows Pension) of Part III

Based on the circumstances outlined above, the pension is in respect of past services in employment; therefore, this test is satisfied.

and

ii. Does the country that the pension arises in have a tax which is chargeable and payable under the law of that country, and which corresponds to income tax in the State?

Given the Cayman Islands does not have a tax which corresponds to income tax in Ireland, this condition is not satisfied. Therefore, the exemption under section 200 TCA does not apply to the pension payments.